

HOUSE BILL 3897

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 47,  
Chapter 18, relative to gift certificates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 1, is amended by adding the following as new sections:

§ 47-18-129. As used in this act, unless the context otherwise requires:

(1) "Dormancy fee" means a charge imposed against the unused value of a gift certificate or gift card due to inactivity;

(2) "Gift card" means a tangible device, on which is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. "Gift card" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card;

(3) "Gift certificate" means a written promise given in exchange for payment to provide merchandise in a specified amount or of equal value to the bearer of the certificate. "Gift certificate" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card;

(4) "Merchandise" means and includes any objects, wares, goods, commodities, services or anything offered, directly or indirectly, to the public for sale;

(5) "Prepaid bank card" means a general use, prepaid card or other electronic payment device that is issued by a bank or other financial institution, or a licensed money transmitter, in a pre-denominated amount usable at multiple,

unaffiliated merchants or at automated teller machines, or both, but does not include a card issued by a retail merchant;

(6) "Prepaid telecommunications or technology card" includes, but is not limited to: a prepaid telephone calling card; prepaid technical support card; or prepaid Internet disk distributed to or purchased by a consumer; and

(7) "Rewards card" means a card or certificate distributed by the issuer to a consumer pursuant to an awards, loyalty, rewards or promotional program, without any money or other consideration or thing of value by the consumer in exchange for the card or certificate.

§ 47-18-130.

(a) On or after July 1, 2008, a gift certificate or gift card shall retain its full unused value until presented in exchange for merchandise.

(b) No gift certificate or gift card shall expire within twenty-four (24) months immediately of the date of sale.

(c) No dormancy fee shall be charged against a gift certificate or gift card within twenty-four (24) months of the date of sale, nor shall a fee be charged within twenty-four (24) months of the most recent activity or transaction in which the certificate or card was used.

(d) No dormancy fee charged against a gift certificate or gift card shall exceed two dollars (\$2.00) per month.

(e) Subsections (b), (c) and (d) shall not apply where the terms of any expiration date or dormancy fee applicable to a gift certificate or gift card are disclosed to a consumer by:

(1) Written notice of the expiration date or dormancy fee, or both, printed in at least 10 point font on the gift certificate or gift card, the sales

receipt for the certificate or card, or the package for the certificate or card;  
and

(2) Written notice, in at least 10 point font, on the gift certificate or gift card, the sales receipt for the certificate or card, or the package for the certificate or card, of a telephone number which the consumer may call, for information concerning any expiration date or dormancy fee.

SECTION 2. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following as a new, appropriately designated subsection:

( ) Failing to comply with § 47-18-130.

SECTION 3. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 4. This act shall take effect on July 1, 2008, the public welfare requiring it.